

Introduced by Senator Kuehl

February 18, 2005

An act to amend Sections 4616 and 4616.7 of, and to add Section 4616.8 to, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as introduced, Kuehl. Workers' compensation: medical provider networks: accountability.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment.

Existing law authorizes an employer or insurer to establish or modify a medical provider network for the provision of medical treatment to injured employees, and to submit a medical provider network plan to the administrative director for approval.

This bill would require a medical provider network to demonstrate, in a manner determined by the administrative director, that it has the organizational and administrative capacity to provide services to covered employees, and to establish a quality assurance committee to perform various functions relating to quality of care. The bill would also impose requirements regarding the composition of a network, and would require reapproval of a network every 3 years.

Existing law requires that a health care organization be deemed approved as a medical provider network if it meets the percentage required for physicians primarily engaged in nonoccupational medicine and all the other requirements are met, as determined by the administrative director.

This bill would require a health care organization to demonstrate that the estimated number of covered employees within a proposed

medical provider network plan that utilizes the health care organization's provider network, when combined with the number of employees already covered by the health care organization at the time of application for approval as a medical provider network, does not exceed the health care organization's capacity to provide services, as determined by the administrative director.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as
2 the Occupational Healthcare Accountability Act.

3 SEC. 2. Section 4616 of the Labor Code is amended to read:

4 4616. (a) (1) On or after January 1, 2005, an insurer or
5 employer may establish or modify a medical provider network
6 for the provision of medical treatment to injured employees. The
7 network shall include physicians primarily engaged in the
8 treatment of occupational injuries and physicians primarily
9 engaged in the treatment of nonoccupational injuries. The goal
10 shall be at least 25 percent of physicians primarily engaged in the
11 treatment of nonoccupational injuries. The administrative
12 director shall encourage the integration of occupational and
13 nonoccupational providers. The number of physicians in the
14 medical provider network shall be sufficient to enable treatment
15 for injuries or conditions to be provided in a timely manner. The
16 provider network shall include an adequate number and type of
17 physicians, as described in Section 3209.3, or other providers, as
18 described in Section 3209.5, to treat common injuries
19 experienced by injured employees based on the type of
20 occupation or industry in which the employee is engaged, and the
21 geographic area where the employees are employed.

22 (2) *The medical provider network shall demonstrate, in a*
23 *manner determined by the administrative director, that it has the*
24 *organizational and administrative capacity to provide services to*
25 *covered employees.*

26 (3) Medical treatment for injuries shall be readily available at
27 reasonable times to all employees. To the extent feasible, all
28 medical treatment for injuries shall be readily accessible to all
29 employees. With respect to availability and accessibility of

1 treatment, the administrative director shall consider the needs of
2 rural areas, specifically those in which health facilities are
3 located at least 30 miles apart.

4 (b) The employer or insurer shall submit a plan for the medical
5 provider network to the administrative director for approval. The
6 administrative director shall approve the plan if he or she
7 determines that the plan meets the requirements of this section. If
8 the administrative director does not act on the plan within 60
9 days of submitting the plan, it shall be deemed approved.

10 (c) Physician compensation may not be structured in order to
11 achieve the goal of reducing, delaying, or denying medical
12 treatment or restricting access to medical treatment.

13 (d) If the employer or insurer meets the requirements of this
14 section, the administrative director may not withhold approval or
15 disapprove an employer's or insurer's medical provider network
16 based solely on the selection of providers. In developing a
17 medical provider network, an employer or insurer shall have the
18 exclusive right to determine the members of their network.

19 (e) All treatment provided shall be provided in accordance
20 with the medical treatment utilization schedule established
21 pursuant to Section 5307.27 or the American College of
22 Occupational Medicine's Occupational Medicine Practice
23 Guidelines, as appropriate.

24 (f) No person other than a licensed physician who is
25 competent to evaluate the specific clinical issues involved in the
26 medical treatment services, when these services are within the
27 scope of the physician's practice, may modify, delay, or deny
28 requests for authorization of medical treatment.

29 (g) On or before November 1, 2004, the administrative
30 director, in consultation with the Department of Managed Health
31 Care, shall adopt regulations implementing this article. The
32 administrative director shall develop regulations that establish
33 procedures for purposes of making medical provider network
34 modifications.

35 SEC. 3. Section 4616.7 of the Labor Code is amended to read:

36 4616.7. (a) (1) A health care organization certified pursuant
37 to Section 4600.5 shall be deemed approved pursuant to this
38 article if it meets the percentage required for physicians primarily
39 engaged in nonoccupational medicine specified in subdivision (a)

1 of Section 4616 and all the other requirements of this article are
2 met, as determined by the administrative director.

3 (2) *A health care organization providing health care services*
4 *pursuant to this section shall demonstrate that the estimated*
5 *number of covered employees within a proposed medical*
6 *provider network plan that utilizes the health care organization's*
7 *provider network, when combined with the number of employees*
8 *already covered by the health care organization at the time of*
9 *application for approval pursuant to this article, does not exceed*
10 *the health care organization's capacity to provide services, as*
11 *determined by the administrative director.*

12 (b) A health care service plan, licensed pursuant to Chapter 2.2
13 (commencing with Section 1340) of Division 2 of the Health and
14 Safety Code, shall be deemed approved for purposes of this
15 article if it has a reasonable number of physicians with
16 competency in occupational medicine, as determined by the
17 administrative director.

18 (c) A group disability insurance ~~policy~~ *plan*, as defined in
19 subdivision (b) of Section 106 of the Insurance Code, that covers
20 hospital, surgical, and medical care expenses shall be deemed
21 approved for purposes of this article if it has a reasonable number
22 of physicians with competency in occupational medicine, as
23 determined by the administrative director. For the purposes of
24 this section, a group disability insurance policy shall not include
25 Medicare supplement, vision-only, dental-only, and
26 Champus-supplement insurance. For purposes of this section, a
27 group disability insurance policy shall not include hospital
28 indemnity, accident-only, and specified disease insurance that
29 pays benefits on a fixed benefit, cash-payment-only basis.

30 (d) Any Taft-Hartley health and welfare fund shall be deemed
31 approved for purposes of this article if it has a reasonable number
32 of physicians with competency in occupational medicine, as
33 determined by the administrative director.

34 SEC. 4. Section 4616.8 is added to the Labor Code, to read:

35 4616.8. (a) The medical provider network shall provide
36 substantiated projections of the number of covered employees for
37 which the medical provider network will be responsible for
38 health care services including the locations within and around
39 covered employees' places of work and residence.

1 (b) The medical provider network shall provide at least one
2 full-time equivalent primary treating physician within the
3 geographical proximity specified in subdivision (a) for every
4 3,600 covered employees. The medical provider network shall
5 provide information regarding the methodology, data, and
6 assumptions used in its calculations that demonstrate compliance
7 with this section.

8 (c) The medical provider network shall employ or contract for
9 the services of at least one full-time equivalent, board-certified
10 occupational medicine physician to provide expertise directly to
11 the medical provider network on workplace health and safety
12 issues and prevention and treatment of occupational injuries and
13 illnesses.

14 (d) (1) A medical provider network shall include a written
15 program designed to ensure a level of care for occupational
16 injuries and illnesses, which meets professionally recognized
17 standards of care. The program shall be designed and directed by
18 providers who serve as members of the medical provider
19 networks' quality assurance committee, to document that the
20 quality of care provided is reviewed, that problems are identified,
21 that effective action is taken to improve care where deficiencies
22 are identified, that followup measures are planned where
23 indicated, and that all of the requirements of this division are
24 met. The program shall demonstrate that the medical provider
25 network's utilization review activities are designed to improve
26 the quality of care provided.

27 (2) The medical provider network quality assurance committee
28 shall meet on at least a quarterly basis or more frequently if
29 problems have been identified, to oversee its quality assurance
30 program responsibilities. Reports to the medical provider
31 network's governing body shall be sufficiently detailed to
32 include findings and actions taken as a result of the quality
33 assurance program and to identify those internal or contracting
34 provider components, which the quality assurance program had
35 identified as presenting significant or chronic quality of care
36 issues.

37 (3) The medical provider network shall establish a quality
38 assurance program to monitor and evaluate the care provided by
39 each contracting provider group or facility. Medical groups or
40 other provider entities may also have active quality assurance

1 programs. However, the medical provider network shall retain
2 responsibility for reviewing the overall quality of care delivered
3 to covered employees. To the extent that the medical provider
4 network quality assurance responsibilities are delegated within
5 the medical provider network or to a contracting provider or
6 facility, the medical provider network shall provide evidence of
7 an oversight mechanism for ensuring that delegated quality
8 assurance functions are adequately performed.

9 (4) Physicians shall be an integral part of the quality assurance
10 program. Design and implementation of the quality assurance
11 program shall be supervised by physicians designated by the
12 medical provider network. Physician participation in quality
13 assurance activities shall be adequate to monitor the full scope of
14 clinical services rendered, resolve problems, and ensure that
15 corrective action is taken when indicated. Specialist providers
16 shall also be involved in peer review of like specialties.

17 (e) Approval as a medical provider network pursuant to
18 Section 4616 shall be for no more than three years from the
19 original date of approval by the administrative director or if the
20 medical provider network was deemed approved pursuant to
21 subdivision (b) of Section 4616, no more than three years from
22 the date of deemed approval, at which time the medical provider
23 network shall apply for reapproval.